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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

10759-159

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on _____

Signature _____

Typed or printed name _____

Application Number

10/072,042

Filed

February 5, 2002

First Named Inventor

Cory O. Nykoluk

Art Unit

3781

Examiner

Mai, Tri M.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 43,476

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____



Signature

Bruce T. Atkins

Typed or printed name

314-621-5070

Telephone number

January 31, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Cory O. Nykoluk	:	
	:	Art Unit: 3781
Serial No.: 10/072,042	:	
	:	Examiner: Mai, Tri M.
Filed: February 5, 2002	:	
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For: PIVOTAL HANDLE FOR	:	
TOWABLE BAGGAGE	:	

ARGUMENTS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

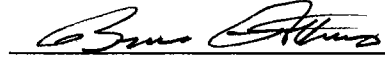
The Office Action dated November 27, 2007 and made final, and also the Advisory Action dated January 28, 2008, have been carefully reviewed. Applicants request review of the following issues:

1. Applicants request review of the position taken by the Office with respect to the Lu '344 reference and the Petition to Disqualify the Lu '344 reference under Rule 1.132. Insofar as all but one of the outstanding § 103 rejections rely upon the Lu '344 reference as a primary reference, the sufficiency of the Rule 1.132 Declaration is a central issue in the present prosecution. Applicants position on the issues is set forth on pages 9-11 of Applicants' Amendment filed January 11, 2008 and the attachments submitted therewith including the applicable provisions of the MPEP and a court opinion that is cited in the MPEP. It is not believed that the Office has followed the procedures of the MPEP or controlling law in this instance, and that the rejections that rely upon Lu '344 are overcome by the 1.132 Declaration when the applicable provisions of the MPEP are followed and the law is properly applied.

2. Applicants request review of the § 103(a) rejection of claims 47-60 and 74-86 as being unpatentable over Chen '951 in view of Myoshi and Dean or Lu '344. Applicants position on this issue is set forth on pages 14-15 of Applicants' Amendment filed January 11, 2008. Applicants position with respect to the Myoshi reference is also detailed on pages 13-14 of Applicants Amendment filed September 20, 2007.

Favorable action is respectfully solicited.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Bruce T. Atkins", is written over a horizontal line.

Bruce T. Atkins

Registration No. 43,476

ARMSTRONG TEASDALE LLP

One Metropolitan Square, Suite 2600

St. Louis, Missouri 63102-2740

(314) 621-5070